

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Owen Godshall	Team: Squad #4	CCRB Case #: 201507225	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 08/26/2015 8:12 AM	Location of Incident: 585 DeKalb Avenue	Precinct: 79	18 Mo. SOL 2/26/2017	EO SOL 2/26/2017	
Date/Time CV Reported Wed, 08/26/2015 5:19 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Thu, 08/27/2015 8:31 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Keith Chatterton	07323	925067	079 PCT
2. POM Kevin McLeish	09951	928758	079 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Keith Chatterton	Discourtesy: PO Keith Chatterton spoke discourteously to several individuals.	
B.POM Keith Chatterton	Abuse: PO Keith Chatterton refused to provide his shield number to § 87(2)(b)	
C.POM Kevin McLeish	Abuse: PO Kevin McLeish stopped the bicycle on which § 87(2)(b) was riding.	

Case Summary

On August 27, 2015, § 87(2)(b) filed this complaint with the CCRB online.

At approximately 8:12 a.m. on August 26, 2015, § 87(2)(b) rode by a Home Depot, located at 525 DeKalb Avenue, in Brooklyn, on his bicycle. He saw that a marked car containing two officers, PO Keith Chatterton and PO Kevin McLeish, stopped in front of a group of day laborers. § 87(2)(b) overheard PO Chatterton tell the laborers not to “play fucking games” with him (**Allegation A**). PO Chatterton then drove away.

§ 87(2)(b) followed the officers’ vehicle, catching up to them at the intersection of Nostrand Avenue and Pulaski Street. § 87(2)(b) asked PO Chatterton for his shield number. PO Chatterton asked § 87(2)(b) why he wanted the information. § 87(2)(b) replied that he was concerned with PO Chatterton’s use of profanity against the day laborers. He then repeated his request. PO Chatterton told § 87(2)(b) “Have a nice day.” He then drove his car several feet forward (**Allegation B**). § 87(2)(b) however, pursued PO Chatterton, and repeated his request. This time, PO Chatterton provided his shield number.

§ 87(2)(b) then turned left onto Pulaski Street. The officers’ RMP also turned left. Both § 87(2)(b) and the RMP continued driving for another block, until they both came to a stop at a red light at the intersection of Pulaski Street and Marcy Avenue. PO Chatterton asked § 87(2)(b) if he knew how many complaints that had been filed regarding the day laborers. § 87(2)(b) replied that he did not care about the complaints, and was only concerned with PO Chatterton’s use of language. When the light changed to green, § 87(2)(b) started to pull away. PO Chatterton, however, told him to pull over (**Allegation C**).

Once § 87(2)(b) stopped, PO McLeish exited the RMP and spoke to § 87(2)(b) directly. He asked § 87(2)(b) for his identification. § 87(2)(b) stated that he had a problem with PO McLeish’s request, but complied with it nonetheless. PO McLeish then asked § 87(2)(b) why he had asked PO Chatterton for his shield number. § 87(2)(b) replied that he was concerned with PO Chatterton’s use of profanity. PO McLeish started to explain that officers sometimes make mistakes due to the pressure of dealing with hostile individuals, but § 87(2)(b) cut him off, stating that he was late for work. PO McLeish then wrote down the information from § 87(2)(b)’s identification. He did not arrest § 87(2)(b) or issue him a summons. PO Chatterton and PO McLeish then returned to their vehicle and drove away.

Video Evidence

§ 87(2)(b) recorded his interaction with PO Chatterton and PO McLeish on his cell phone. He began recording as he rode up to the officers’ RMP, after PO Chatterton spoke to the day laborers. (See Board Review: Video Evidence). Clips from this video have been attached below in the analysis section.

Mediation, Civil and Criminal Histories

- § 87(2)(b) rejected mediation.

- A notice of claim request was submitted to the Comptroller's office on October 21, 2015. It will be included in the case file upon receipt.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]

Civilian and Officer CCRB Histories

- [§ 87(2)(b)] has filed three previous complaints with the CCRB. [§ 87(2)(b)]
[REDACTED]
[REDACTED]
[REDACTED]
- PO Chatterton has been a member of the service for fifteen years, and there are three substantiated CCRB allegations against him. In case #200508075, a retaliatory arrest allegation was substantiated against him. He received instructions. In case #201106011, a discourtesy allegation was substantiated against him. He received a command discipline. In case #201410995, a refusal to provide name and shield allegation was substantiated against him. He received a command discipline. This is the eighth discourtesy allegation against PO Chatterton, and the third refusal to provide name and shield allegation.
- PO McLeish has been a member of the service for fourteen years, and there are no substantiated CCRB allegations against him. One previous vehicle stop allegation against him was closed as exonerated.

Findings and Recommendations

Explanation of Subject Officer Identification

- In his telephone interview, [§ 87(2)(b)] stated that he believed that PO McLeish, rather than PO Chatterton, used profanity against the day laborers. In the video that he provided, however, [§ 87(2)(b)] clearly accuses PO Chatterton of using profanity. PO Chatterton confirmed that he did use profanity against the day laborers. [§ 87(2)(g)]
[REDACTED].
- It is undisputed that PO Chatterton ordered [§ 87(2)(b)] to pull over. Both PO Chatterton and PO McLeish, however, stated that PO McLeish made the decision to pull him over, and that PO Chatterton only delivered the command because he was closest to [§ 87(2)(b)] [§ 87(2)(g)]
[REDACTED].

Allegation A: Discourtesy - PO Keith Chatterton spoke discourteously to [§ 87(2)(b)]

It is undisputed that PO Chatterton used profanity while speaking to the day laborers. [§ 87(2)(b)] was interviewed on September 14, 2015 (See Board Review: Civilian Statement). He alleged that PO Chatterton told the day laborers that he was not going to "play fucking games" with them. PO Chatterton was interviewed at the CCRB on October 8, 2015 (See Board Review: MOS Statements). He stated that he told the laborers, "I will come back and wipe that fucking smile off your face," and, "Don't fucking care if anyone gets work." When asked, he recalled that he did tell the day laborers that he was not "playing fucking games." When asked why he used

this language, PO Chatterton explained that he was frustrated with the day laborers, as he often had to disperse groups of them from the Home Depot parking lot. § 87(2)(b) did not record PO Chatterton's interaction with the day laborers.

NYPD Patrol Guide procedure 203-09 requires officers to be courteous and respectful while in contact with members of the public. Officers may use limited profanity within the context of a command in order to maintain order during a stressful street encounter. PD v. White, OATH Index #78667/03 (See Board Review: Legal Reference).

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

Allegation B: Abuse of Authority - PO Keith Chatterton refused to provide his shield number to § 87(2)(b)

It is undisputed that when § 87(2)(b) first approached PO Chatterton and asked for his shield number, PO Chatterton ignored the request and continued driving. PO Chatterton stated that he did not provide his information at that time because he did not know who § 87(2)(b) was, or what his interest in the information was. § 87(2)(b) recorded this portion of the interaction.



201507225 - Snagit 1.mp4

NYPD Patrol Guide procedure 203-09 requires that officers provide their shield numbers to members of the public upon request (See Board Review: Legal Reference).

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation C: Abuse of Authority - PO Kevin McLeish stopped the bicycle on which § 87(2)(b) was riding.

It is undisputed that PO Chatterton stopped § 87(2)(b) on PO McLeish's instructions. PO McLeish was interviewed at the CCRB on October 8, 2015 (See Board Review: MOS Statements). He stated that he instructed PO Chatterton to stop § 87(2)(b) because § 87(2)(b) had been riding his bicycle in a reckless fashion after he obtained PO Chatterton's shield number. He stated that § 87(2)(b) had failed to signal a left turn onto Pulaski Street, and that § 87(2)(b) was steering his bicycle with one hand while recording with the other as he rode. PO McLeish decided to stop § 87(2)(b) and issue him a summons for reckless

driving. No other factors contributed to his decision to stop § 87(2)(b). When PO Chatterton pulled up next to § 87(2)(b) at a stop light, they engaged each other in a conversation about the day laborers. There was a pause after this conversation as § 87(2)(b) and the officers waited for the light to turn green. Once the light changed, PO McLeish instructed PO Chatterton to pull § 87(2)(b) over. PO McLeish did not recall the duration of this pause, and was not aware of any circumstances during the pause that would have prevented him from stopping § 87(2)(b). When shown in the video evidence that § 87(2)(b) and the officers were stopped together at the light for about a minute, including about twenty seconds of silence, PO McLeish stated that there was “no real reason” why he did not stop § 87(2)(b) at that time. Once § 87(2)(b) pulled over, PO McLeish spoke to him one-on-one. He stated that he did not explain the circumstances of the stop to § 87(2)(b) because he did not want to start an argument. When § 87(2)(b) told PO McLeish that he was § 87(2)(b) and that he was running late for work, PO McLeish decided not to issue the summons, and instead released § 87(2)(b).

PO Chatterton confirmed that PO McLeish instructed him to pull § 87(2)(b) over after he spoke to § 87(2)(b) about the day laborers. He also stated that he thought that § 87(2)(b) was operating his bicycle recklessly by driving with one hand. PO Chatterton initially stated that this was the only offense that § 87(2)(b) had committed at the time. Later, when specifically asked if § 87(2)(b) had signaled his turn onto Pulaski Street, PO Chatterton recalled that he had not. Despite § 87(2)(b)'s allegedly reckless driving, PO Chatterton had no intention of stopping § 87(2)(b) or issuing a summons when he spoke to § 87(2)(b) at the stop light, stating that the notion did not “dawn on” him. He had not considered stopping § 87(2)(b) until PO McLeish instructed him to do so.



201507225 - Snagit 2.mp4

§ 87(2)(b) recorded his interaction with the officers at the stop light. In it, PO Chatterton drives up next to him and asks him if he is aware of how many complaints are received regarding the day laborers at the Home Depot. After a conversation about the laborers, § 87(2)(b) and the officers sit in silence for approximately twenty seconds, after which § 87(2)(b) starts to ride away. At that point, PO Chatterton tells him to pull his bicycle over.



201507225 - Snagit Capture 3.mp4

Once § 87(2)(b) is stopped, PO McLeish approaches him and speaks to him one-on-one. PO McLeish asks what § 87(2)(b)'s issue is with PO Chatterton. § 87(2)(b) reiterates that PO Chatterton used profanity against the laborers. PO McLeish attempts to explain that officers often have to deal with difficult individuals under frustrating circumstances. § 87(2)(b) however, cuts PO McLeish off and tells him that he is late for work.

Officers may conduct a vehicle stop based on probable cause that the vehicle's operator has committed a traffic violation. People v. Weishaupt, 2014 N.Y. App. Div. LEXIS 4169 (App. Term 3rd Dept. 2014). New York State Vehicle Traffic Law §1212 states that reckless driving

§ 87(2)(g)

[REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

[illegible]

[REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date